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of Minorities
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ADMINISTRATION OF JUSTICE AND THE HUMAN RIGHTS OF DETAINEES
QUESTION OF HUMAN RIGHTS OF PERSONS SUBJECTED TO ANY FORM OF
DETENTION AND IMPRISONMENT

Report of the Secretary-General on the application of international
standards concerning the human rights of detained juveniles prepared
pursuant to Sub-Commission resolution 1989/31

ADDENDUM

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I. INFORMATION RECEIVED FROM GOVERNMENTS

A. EGYPT

[Original: Arabic]
[18 July 1990]

I. Definition of "juvenile" under Egyptian law

Article 1 of the Juveniles Act No. 31 of 1974 stipulates that: "Under the terms of this Act, a 'juvenile' shall be deemed to be a person under the age of 18 Gregorian years at the time of commission of the offence or at the time at which he is found to be in a state of potential delinquency".

II. The criminal responsibility of juveniles

1. In the case of juveniles under seven years of age:

Under Egyptian law, a juvenile under seven years of age cannot be held responsible for his acts. From the age of seven, it is conceivable that a juvenile could pose a threat to society, which must be averted by appropriate measures. According to article 3 of the Juveniles Act, a juvenile would pose a threat to society if he were exposed to delinquency in any of the circumstances specified in article 2 of the Juveniles Act, such as vagrancy, habitual truancy from educational establishments, or the commission of felonies or misdemeanours. In any of these circumstances, one of the measures prescribed in article 7 of the Juveniles Act can be taken against him, namely a reprimand, delivery into the care of a parent or guardian, enrolment for vocational training, the compulsory fulfilment of specified obligations, probation, placement in a social care institution, or admission to a specialized hospital. The reason for this is that a juvenile under seven years of age cannot be held accountable, since he is regarded as being unable to distinguish between right and wrong. At this age, the purpose of the application of the measures prescribed in the Juveniles Act is not to punish him, but rather to protect him from delinquency. This was confirmed in the report of the Joint Committee of the People's Assembly, which stated that, under the provisions of the draft Juveniles Act, a juvenile under seven years of age who posed a threat to society through his potential delinquency or his commission of acts that constituted offences under the Penal Code, was in dire need of social care, particularly if he lacked a fixed place of abode or a source of support. Accordingly, the Act makes provision for such care by prescribing rehabilitative measures, as indicated in the explanatory notes on the draft Juveniles Act, which stipulate that such juveniles should be regarded as potential delinquents rather than criminals up to the age at which they are able to distinguish between right and wrong, which the Egyptian Penal Code has specified as seven years.

2. In the case of juveniles over 7 but under 15 years of age:

Such juveniles can be held criminally responsible to a limited extent. Although the law makes no distinction between juveniles under seven years of age and those over seven but under 15 in regard to the measures applicable under article 7, there is a difference in the purpose of these measures in the case of those two age groups. For the first group, the measures are designed

solely to avert the potential threat whereas, for the second group, they are designed not only to avert the threat but also to take into account the limited degree of responsibility.

3. In the case of juveniles over 15 but under 18 years of age:

Although these juveniles cannot be held criminally responsible to the full extent, the criminal threat that they pose is greater than that posed by younger persons, in view of the fact that they are approaching the age of criminal responsibility. Accordingly, the law imposes some of the penalties prescribed in the Penal Code. However, in consideration of their age, article 15 of the Juveniles Act places various restrictions on those penalties:

(a) In the case of felonies

- (i) If the offence is punishable by death or hard labour for life, it is commuted to a term of not less than 10 years' imprisonment. If the offence is punishable by hard labour for a limited period of time, it is commuted to a term of imprisonment.
- (ii) If the offence is punishable by a term of hard labour or imprisonment, it is commuted to a term of not less than six months' detention. If it is punishable by imprisonment, it is commuted to a term of not less than three months' detention. In all cases, the penalty must not exceed one third of the maximum penalty prescribed for the offence and, instead of sentencing the juvenile to one of these penalties, the court may order his committal to a social care institution for a period of not less than one year, in accordance with the provisions of the Act.

(b) In the case of misdemeanours

If the offence is punishable by detention, the court may order the application of the fifth or sixth measure prescribed in article 7 of the Act.

III. With regard to investigation procedures

Under article 26 of the Juveniles Act, a juvenile under 15 years of age cannot be placed in preventive detention. If the circumstances of the offence with which a juvenile is charged necessitate his remand in custody, the Department of Public Prosecutions may order his confinement under surveillance at a special facility for a period not exceeding one week. The court may also extend this period of confinement, in accordance with the provisions of the Code of Criminal Procedure, as article 51 of the Juveniles Act stipulates that: "The provisions of the Penal Code and the Code of Criminal Procedure shall apply in cases for which no provision is made in this Act". Instead of ordering or extending such confinement, the Department of Public Prosecutions or the court may order the delivery of the juvenile into the custody of one of his parents or his guardian until such time as his presence is required. Although juveniles over 15 years of age may be placed in preventive detention, they can be held only in separate facilities at prisons, in special juvenile penal institutions or in juvenile care institutions.

IV. Trial

The Juveniles Act makes provision for special juvenile courts to hear cases involving juvenile offenders. The basic purpose of these juvenile courts is to promote the rehabilitation of the offenders concerned.

Article 28 of the Juveniles Act stipulates that these courts must consist of a single judge, assisted by two experienced social workers, at least one of whom must be a woman, whose presence during the trial proceedings is obligatory. These two assessors must submit their report to the court, after discussing all aspects of the juvenile's circumstances, before the court hands down its judgement. If the court is not constituted in this manner, its judgement is deemed invalid.

Under article 40 of the Juveniles Act, judgements handed down by a juvenile court are subject to appeal, with the exception of judgements providing for a reprimand or delivery into the custody of parents or a guardian, in regard to which an appeal can be lodged only on the grounds of erroneous application of the law, invalidity of the judgement or a procedural defect that had an effect on the said judgement. Appeals must be lodged with a special division of the competent court of first instance.

The two specialist assessors whose presence is required at the juvenile court (of first instance) are not obliged to attend the hearing by the Appeal Division and its proceedings are not vitiated by their absence.

Judgements that are subject to appeal can always be reviewed and quashed. The provisions concerning review, as set forth in articles 353-441 of the Code of Criminal Procedure, are applied, with the exception of those which are not applicable to juveniles.

The Juveniles Act seeks to protect the juvenile's right to defend himself during the trial proceedings. Article 33 of the Act stipulates that: "A juvenile charged with a felony must have a lawyer to defend him. If he has not appointed a lawyer, the Department of Public Prosecutions or the court shall appoint one in accordance with the rules laid down in the Code of Criminal Procedure.

If the juvenile is over 15 years of age, the court may appoint a lawyer to defend him in cases involving misdemeanours".

The second paragraph of this article empowers the court to appoint a lawyer to defend juveniles over 15 in cases involving misdemeanours because of the penalties to which juveniles of that age may be liable.

Article 34 of the Juveniles Act stipulates that the juvenile courts must maintain confidentiality, in contrast to the general rule, in order to protect the reputation of the juvenile and his family. This confidentiality is required in the interests of public order. The judgement, on the other hand, must be handed down in public, otherwise it would be invalid.

V. Measures and penalties

The Egyptian Juveniles Act draws a distinction between juvenile offenders under 15 and those over 15 but under 18 years of age. The former cannot be sentenced to any of the penalties or measures prescribed in the Penal Code, with the exception of confiscation and closure of place of business. They are liable only to one of the measures specified in article 7 of the Juveniles Act. However, juveniles who are over 15 but under 18 years of age are liable to some of the penalties prescribed in the Penal Code, subject to the restrictions specified in article 15 of the Juveniles Act. The measures and penalties prescribed in the Juveniles Act are set forth in articles 7 to 23 thereof.

VI. Execution of penalties and measures

Article 49 stipulates that: "Penalties of deprivation of liberty to which juveniles are sentenced shall be served at special penal institutions, the organization of which shall be regulated by decision of the Minister of Social Affairs, in collaboration with the Minister of the Interior.

The social rehabilitation of juvenile offenders may be pursued through development and agricultural reclamation projects in remote areas".

Decision No. 321 of 1981, promulgated by the Minister of Social Affairs on 17 September 1981, provided for the establishment of a juvenile penal institution at al-Marg. That decision stipulated that the provisions of the Prisons Act concerning early release would apply to juveniles sentenced to a penalty of deprivation of liberty. This institution accommodates juveniles sentenced to penalties of deprivation of liberty up to the age of 21. If a juvenile reaches this age while serving his sentence at the institution, he is assigned to one of the labour camps run by the Prisons Authority, provided that he has been of good conduct, and he remains in the institution for at least two years; otherwise, he is transferred to a prison to serve the remainder of his sentence.

Under article 47 of the Juveniles Act, sentences cannot be enforced by means of physical coercion in the case of convicted persons subject to the provisions of the Act.

B. EL SALVADOR

[Original: Spanish]
[11 July 1990]

QUESTIONNAIRE ON THE APPLICATION OF INTERNATIONAL STANDARDS
CONCERNING THE HUMAN RIGHTS OF JUVENILES DEPRIVED OF THEIR
LIBERTY

I. Definition of "juvenile" under national law

A. What is the legal definition of "juvenile" in your country?

The Civil Code of El Salvador, article 26, stipulates that a "juvenile is a person who has not reached the age of 21", unless he or she has reached the age of majority earlier by virtue of any applicable law.

The Juvenile Code, article 3, stipulates that "the benefits afforded by the Code shall extend to juveniles not over 18 years of age who are in a state of material or moral neglect, or in danger and at risk, and to juvenile offenders aged 16 or under who have committed acts considered to be crimes or correctional offences under criminal law.

Any juvenile whose true age is unknown is considered to fall within the age limits specified in the above paragraph, in the absence of evidence to the contrary.

B. What is the age of criminal responsibility in your country?
Binding application of criminal law

Article 16 of the Penal Code stipulates that "this Code shall apply to all persons subject to Salvadorian jurisdiction aged over 16 years at the time of the offence.

Persons who have not attained that age shall remain subject to the special laws on juveniles.

C. At what age may a person charged with an offence be tried as an adult?

Article 35 of the Constitution stipulates that juvenile delinquency shall be subject to a special legal system. Thus the Penal Code currently puts the age below which persons may not be charged at 16, making persons above that age criminally liable.

Juvenile offenders aged up to 16 are subject to the special legal system laid down in the Juvenile Code, which prescribes not penalties but protective and educational measures. This is in contrast to the practice with persons aged over 16, on whom the relevant penalty is imposed, their age constituting a factor serving to mitigate the sentence.

- D. Are there any conditions and procedures under which juveniles are tried as adults? If so, what are they and how frequently does this occur in practice?

No, persons under the age of 16 are not tried. They are only subject to rulings designed to protect their rights. Juveniles past the age of 16 are subject to the jurisdiction of the criminal courts in the same way as adults, in accordance with the seriousness of their offence.

- E. Does the law allow juveniles to be proceeded against for "status offences", that is, any specific behaviour that would not be punishable if committed by an adult?

Under the Juvenile Code, juveniles who, although they have not committed an act considered to be a crime, might be inclined to do so, or who might be the victims of an offence committed by adults, are assigned to protective jurisdiction for juveniles. Juveniles found suffering from moral or material neglect, or in danger or at risk, are subject to measures designed to afford them protection and prevent them from lapsing into delinquency.

II. Detention pending trial

- A. In what circumstances does the law permit the detention pending trial of juveniles by court order?

Although Salvadorian law does not employ the term detention pending trial, the last of the measures laid down by the Juvenile Code, article 82 falls within this category: "placement in rehabilitation centres". The juvenile courts consider that the protective measure most frequently adopted is placement, being the most suitable for juveniles. Its length is limited by law to a minimum of one year and a maximum of six, although a juvenile magistrate may conditionally suspend it if he receives reports from the centre that the juvenile shows favourable and positive signs of being able to return to his family.

- B. Does the law permit the police to detain a juvenile without a court order? If so, in what circumstances and for how long?

The Juvenile Code, article 70, stipulates that juveniles entitled to its protection may be deprived of their liberty only by written order of the juvenile courts, except when caught red-handed in an act constituting a crime under ordinary law, in which case they may be arrested by any agent of authority or private individual, subject to the guarantees and precautions necessary to safeguard their physical and moral integrity.

Article 71 of the Code stipulates that any agent of authority or private individual who arrests a juvenile must take him to an observation centre to await the disposal of the appropriate judge.

Should the juvenile be outside the limits of San Salvador, he must be transferred to the nearest juvenile centre or to the town hall. Juvenile magistrates are required to act with the utmost promptitude and to make the necessary inquiries to establish the facts of any case in which juveniles are implicated. The Juvenile Code, article 73, stipulates that investigations to establish the facts must be completed within eight days.

- C. In practice, what percentage of juveniles charged with an offence are detained pending trial, and what is the average length of this detention?

According to figures provided by the First Juvenile Court, approximately 75 per cent are ordered detained for a specified period pending trial. The duration of detention ordered by the court varies from 72 hours to 8 days, during which investigations to establish the facts are carried out (Juvenile Code, article 73).

If the investigations have been carried out by an investigating magistrate or justice of the peace, he is required to report to the relevant Juvenile Court on the day following the eight-day period.

- D. Are juveniles detained pending trial kept separate from adults and from convicted juveniles? For this purpose, are separate detention facilities used?

Juveniles who have been arrested flagrante delicto by any agent of authority must be immediately transferred to a juvenile centre. If the juvenile is handed over to the town hall, he may remain in the custody of his family or guardians. Under no circumstances may he be held in premises where adults are detained.

Such are the provisions of the law. In practice, this requirement is frequently not complied with, firstly because a high percentage of juveniles in such circumstances are abandoned and have no parents or relatives, and furthermore, because there are no premises inside prisons designed for holding such juveniles.

- E. If the law permits detention of juveniles by the police, do the police have special facilities exclusively for juveniles? If not, what type of facilities are employed for the detention of juveniles?

There are no facilities for holding juveniles in police cells, which is why the security forces are required to hand juveniles over immediately to a protection centre.

- F. Are there legal provisions for replacing detention pending trial by alternative measures, such as close supervision, intensive care or placement with a family or in an educational setting or home? (United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 13.2)

11. The requirement set out in Rule 13.2 is taken up by article 82 of the Juvenile Code, which defines five protective measures that may be applied before the most serious placement in a rehabilitation centre, is adopted.

The remaining rules are complied with wherever possible: the same regulation establishes benefits for juveniles which the State is obliged to honour.

Protective measures applicable to juveniles:

1. Caution;
2. Return to the home, with or without probation;
3. Placement in a foster home;
4. Placement in an approved school;
5. Placement in a remedial institute;
6. Placement in a rehabilitation centre.

G. Is a juvenile deprived of liberty entitled to challenge the legality of the title of detention before a court by habeas corpus, amparo or similar procedure?

The Juvenile Code, articles 102, 103, 104 and 126 provides that juveniles may, through their legal guardian or person with custody over them, or through the Juvenile Advocate to the court ordering a protective measure, lodge an appeal with the appropriate juvenile chamber against the ruling handed down by the court dealing with the case. The appeal must be lodged against the protective measures laid down in article 82 of the Juvenile Code, as described above.

There are currently no juvenile chambers in El Salvador; in practice, appeals against rulings by juvenile magistrates are heard by the First Division Criminal Court.

Thus a juvenile is entitled to appeal in accordance with the rule of law and, as pointed out above, challenge the ruling through an appeal as provided for by articles 102 and 103 of the Juvenile Code pursuant to article 6, subparagraph 4, of the Courts Organization Act.

H. What are the main obstacles, if any, to full compliance with the principle that detention pending trial should be imposed only in exceptional circumstances?

This rule is not applicable in the Salvadorian context as it is contrary to our legal system. If a juvenile aged over 16 has committed a crime, he is tried in accordance with criminal law. If he is under 16, he is subject to measures whose purpose is always to protect his interests.

Internment is frequently employed not in the form of detention pending trial, but merely with a protective and preventive aim.

III. Least possible use of institutionalization

- A. Is it possible in your country to dispose of juvenile cases by "diversion", that is the disposition of a juvenile case without resorting to formal trial by the competent authority?
(United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 11.1)

This rule is not applicable in the Salvadorian context as it is contrary to our legal system. If a juvenile aged over 16 has committed a crime, the case falls within the jurisdiction of the criminal courts: if he is under 16, the case is heard by the juvenile magistrate.

No authority other than the competent court can hand down a judgement except in cases of juveniles taken up on appeal by the Criminal Court.

Nor is it possible to apply any measure other than those set out in the Juvenile Code, since the legislation to this effect is also based on the rule of law.

With the evolution of juvenile law, consideration has been given to the desirability of allowing an administrative authority to order protective and educational measures without applying to the courts, since juveniles are neither tried nor subject to punishment in accordance with article 35, subparagraph 2, of the Constitution, which makes juvenile delinquency subject to a special legal system. In practice, the Salvadorian Juvenile Council, has assumed institutional responsibility for dealing with cases involving juveniles who have been abandoned or are in danger or at risk.

- B. What is the availability and extent of application to juvenile offenders of the following disposition measures:

- (i) Care, guidance and supervision orders;
- (ii) Probation;
- (iii) Community service orders;
- (iv) Financial penalties, compensation and restitution;
- (v) Intermediate treatment and other treatment orders;
- (vi) Orders to participate in group counselling and similar activities;
- (vii) Orders concerning foster care, living communities or other educational settings;
- (viii) Commitment to an open detention facility;
- (ix) Commitment to a closed detention facility;
- (x) Other relevant orders?

Under Salvadorian legislation, a juvenile offender who is assigned to a protective measure may not be subjected to any measure other than those set out in the Juvenile Code, article 82. A minor over the age of 16 who commits a crime is subject to the penalty laid down in the Penal Code.

Of the measures listed above, the following are applied by law: (i), (ii), (iv), (v), (vi) and (vii) - some of them independently, such as probation, while others may be imposed concurrently with internment.

C. In what percentage of cases are non-custodial versus custodial measures applied to juvenile offenders?

According to a report by the First Juvenile Court, 75 per cent of cases involve custodial measures, and 25 per cent involve non-custodial ones.

The Second Juvenile Court reports that juvenile offenders are subject to the protective measures laid down by the Juvenile Code, article 82. In applying such measures the judge takes into account:

1. The relative seriousness of the offence, and whether it would be punishable if committed by an adult;
2. Anti-social behaviour;
3. The moral environment provided by the family;
4. The personality of the juveniles.

D. What are the main obstacles, if any, to full compliance with the principle that the placement of a juvenile in an institution should always be a disposition of last resort and for the minimum necessary period?

The main obstacle is the fact that most of the juveniles brought before the courts for a crime or correctional offence have been completely abandoned and nobody is responsible for them. In addition, families are in a shaky financial position and prefer juveniles to remain in detention where they are provided with food, clothing and an education or occupation.

In addition, it has to be borne in mind that the protective measures are not designed to be punitive but educational and protective, and the rulings handed down are essentially of a preventive nature.

In El Salvador, if a juvenile completes his period of detention or surmounts his behavioural problem before then, the protection centres and the juvenile magistrates face the serious problem that no family is willing to accept the juveniles concerned or to take responsibility for them. It therefore happens that juveniles remain in detention until they are able to look after themselves.

IV. Objectives of institutional treatment

- A. Are there laws outside the penal law field under which juveniles can be deprived of their liberty, for example, in connection with states of emergencies or in cases relating to immigration?

If a juvenile is deprived of his liberty, the authority which has taken this action must refer him to the Juvenile Court, so that it can apply the special legal system for juveniles.

As stated above, no juvenile may be deprived of his liberty except by written order of a juvenile court, unless he is caught red-handed in an act which constitutes a crime (Juvenile Code, art. 70).

- B. Does the law identify the principles, interests and objectives that should guide sentencing and treatment of juvenile offenders?

No sentences are passed on those below the age of 16, only rulings intended for the protection of juvenile rights.

Juvenile offenders over the age of 16 may be liable to imprisonment.

If a juvenile is under the age of 16, an effort is made to give him proper protection, providing assistance at every stage with accommodation, education, training or any other form of useful and practical assistance to facilitate the rehabilitation process. If older, he receives no special treatment and is subject to ordinary law.

- C. What types of educational or rehabilitative programmes are provided in detention facilities for juvenile offenders?

According to information provided by the Juvenile Office, the institution which administers the juvenile protection, guidance and rehabilitation centres, juveniles kept in the centres may participate in various programmes, such as:

(a) Training in occupational workshops according to the juvenile's ability in such areas as tailoring, carpentry, benchwork, hairdressing, shoemaking, breadmaking, poultry farming and other farming projects, or dress-making with sewing or weaving; the object of such programmes is to provide the juvenile with a trade which will enable him or her to obtain employment on leaving the centre;

(b) Psychological help, where the juvenile is assessed and receives individual or group care;

(c) Educational programmes, in which juveniles undertake purely formal education, from kindergarten to sixth grade;

(d) Non-formal education - educational talks on such subjects as drug addiction, vagrancy, sex education, family guidance, family acceptance and legal advice;

(e) Parents' classes, by means of which parents are helped to understand their children's problems through group therapy and talks.

- D. Do specialized juvenile courts exist, and if so, is their number and distribution sufficient to ensure that all cases involving juveniles are handled by such courts?

There are two juvenile courts in our country, both in the San Salvador area, with jurisdiction throughout the Republic.

Information from the two courts indicates that owing to current population growth, two more courts need to be set up, in the eastern and western districts of the country.

- E. Can a criminal court or any authority other than a juvenile court deprive juveniles of their liberty? If so, under what circumstances?

As explained above, there may arise cases in which a juvenile is deprived of liberty when caught red-handed in an act constituting a crime or correctional offence.

- F. What is the maximum period of deprivation of liberty to which a juvenile can be sentenced?

The Juvenile Code does not lay down a definite period; it merely states that protective measures will be applied for an indefinite period, depending on the results obtained. In practice, they end when juveniles reach the age of 18. Cases are reviewed as often as the judge deems necessary and appropriate for the juvenile, and in any case, by law, every six months (Juvenile Code, art. 101).

Article 90 of the Code stipulates that when the protective measure is detention, placement in a rehabilitation centre will be for a long period: not less than one year or more than six years.

In practice, this rule is rarely complied with on account of the obstacle mentioned previously: juveniles complete their stipulated period of detention but cannot leave because there is no family that will continue to offer them protection.

- G. Can a juvenile be sentenced to detention for an indeterminate period? If so, which authority determines when the juvenile offender can be released?

The judges who order punishments or protective measures are also obliged to keep them under review. Where juveniles under 16 are concerned, judges can modify or even suspend protective measures.

A good report by the staff of the centre where the juvenile is kept, based on his behaviour in complying with the protective measure ordered plays an important part in the judge's decision on whether to change the measure.

If the juvenile is over 16 and has committed a crime, the penalty will be in accordance with the Criminal Law, although his being under age will be a mitigating factor.

H. Which authorities are empowered to determine the institution best suited for the treatment of a juvenile offender?

The authorities empowered to determine the detention centre most suitable for a juvenile are the juvenile courts and the institutions responsible for the protection of juveniles.

At some rehabilitation centres given special jurisdiction for juveniles, confinement has been dropped; these centres offer juveniles much more of a school atmosphere.

As regards juveniles over 16, the judges who hear their cases are the ones who decide the penal establishment to which they should be committed.

I. What are the main obstacles, if any, to the full compliance with the principles that promoting the social re-integration of juveniles and encouraging their assuming constructive roles in society are the essential objectives of deprivation of liberty?

The obstacles to compliance with these principles are the result of social, economic, political and cultural structures. An extensive proportion of families in El Salvador live in deprived conditions. This makes for a large number of juveniles who are abandoned, orphaned, at risk or in danger and, for lack of proper attention, lapse into delinquency.

The policies applied have tended to be geared rather to cure than to prevention; there has been too little co-ordinated action, and above all, too little money to carry out programmes. Priority needs to be given to programmes offering care for families and juveniles.

V. Separation of adults and juveniles in penal institutions

A. Does the law expressly recognize the principle that juveniles deprived of their liberty should be kept separate from adults?

Article 105 of the Juvenile Code stipulates that juvenile offenders not over 16 are to be confined in special centres. At those centres, the Code recognizes that juvenile offenders and juveniles who have been abandoned or are in danger or at risk must both be segregated in accordance with their ages, the specific reasons for their detention and any other factor identified by the services responsible for assessing the juveniles' character.

Juveniles aged over 16 who are deprived of their liberty for committing a crime or correctional offence are sent to prison, where they are not kept separate from adults on account of their age.

B. Are there any special situations, recognized by the law or regulations, in which bringing together juvenile offenders with adults is considered to be beneficial for the juveniles concerned? If so, please describe and provide the frequency of these situations in practice.

Salvadorian law contains no provision endorsing the practice of keeping juvenile offenders with adults.

- C. Are there situations in which juvenile offenders are not kept separate from adults because of practical difficulties? If so, please provide the frequency of these situations in practice and describe the safeguards, if any, applied in order to protect the juveniles and prevent possible abuses.

Like any common convict, a juvenile offender who has attained the age of 16 is liable to imprisonment. However, the Penal and Rehabilitation Centres Act makes provision for the needs of each case when such juveniles are to be confined, through preventive measures and remedial treatment combining education, care and any other services that may be available.

- D. Do "mixed" or "multi-purpose" detention facilities designed for both adults and juveniles exist? If so, what measures are taken to provide juveniles with the programmes best suited to their needs and their well-being, and how are they protected against dangers resulting from contact with adult offenders?

No mixed detention facilities exist for either juvenile or adult offenders. In the prisons, prisoners are detained together irrespective of the crimes they have committed; the only separation that takes place inside prisons is by degree of danger that the offender presents.

Juveniles detained at rehabilitation centres receive individual treatment and are placed in programmes which help in their rehabilitation. One way of protecting juveniles from sexual abuse is to increase the guard, separate juveniles according to age and, above all, assign them to activities which will keep them busy.

C. FINLAND

[Original: English]
[21 June 1990]

ANSWERS TO THE QUESTIONNAIRE ON THE APPLICATION OF INTERNATIONAL
STANDARDS CONCERNING THE HUMAN RIGHTS OF JUVENILES DEPRIVED OF
THEIR LIBERTY

I. Definition of "juvenile" under national law

A. A person is a juvenile when he or she at the time of committing a criminal offence is at least 15 but not yet 18 years of age. According to Section 1 of the Juvenile Delinquent Act (262/1940) a person is a young offender when he or she at the time of committing a criminal offence is at least 15 but not yet 21 years of age.

B. According to Chapter 3 Section 1 of the Penal Code the absolute minimum age limit of criminal responsibility is 15 years. A person who is at least 15 years of age is considered responsible for his or her criminal offence. According to Subsection 2 the maximum penalty for a juvenile is three fourths of the maximum penalty if the offence in question would be committed by an older person.

C.- D. The age of the accused has no effect on the manner of proceedings in the court. However, the court may according to Section 5 of the Publicity of Court Proceedings Act (945/1984) decide to meet in camera when a juvenile is accused and he or she requests it or if it for other reasons is considered particularly important.

According to Chapter 3 Section 15 of the Protection of the Child Act (683/1983) a social officer is present when a juvenile is interviewed by the police for an offence or prosecuted in court. According to Section 11 of the Free Court Proceedings Act (87/1973) a qualified lawyer may be assigned free of charge for a juvenile who is prosecuted for an offence.

E. The Finnish law does not allow juveniles to be proceeded against for "status offences". The law does not recognize such offences.

II. Detention pending trial

A. There is no special legislation concerning juveniles as far as the detention pending trial by court order is concerned. According to Chapter 1 Sections 8, 9 and 13 of the Coercive Means Act (450/1987 and amendment 361/1990) the court may decide to detain a person pending trial if he or she is a suspect on probable grounds and if another condition laid down by Chapter 1 Section 3 Subsection 1 is met. These conditions are:

1. The minimum penalty for the offence in question is imprisonment for at least two years.

2. The minimum penalty for the offence in question is at least one year's imprisonment and it is probable that the suspect shall (a) seek to escape or evade justice, (b) seek to tamper with the evidence or influence witnesses or other parties or (c) continue his or her criminal activity.

3. The suspect refuses to identify himself or herself.
4. The suspect is not domiciled in Finland and it is probable that he or she shall seek to evade justice by leaving Finland.

Even if the grounds are not probable, a person may, according to Subsection 2, be detained pending trial if there is reason to suspect him or her, another condition laid down by Subsection 1 is met and it is deemed very important because of expected additional evidence. On these grounds a person must not be detained for more than a week.

According to Section 8 Subsection 3, no one may be detained if this would be unreasonable taking into account his or her age and other circumstances.

The Court has to take up the matter concerning the detention pending trial within four days from the apprehension, as applied by Section 14.

B. According to Chapter 1 Section 3 of the Coercive Means Act the police may detain a person for not more than four days on the grounds mentioned in Chapter 1 Section 3 Subsection 1 of the Coersive Means Act. These grounds are the same as those for detention pending trial and which are specified above (II. A.). During this time the police have to either bring the matter to the court or release the person.

According to Section 3 Subsection 3 no one may be detained if this would be unreasonable taking into account his or her age and other circumstances.

C. One point one per cent of the juveniles charged with an offence were detained pending trial in 1986. Their total number was 103.

D. Juveniles pending trial are as a rule kept separate from adults and convicted juveniles. They often share the same building but are kept in different parts of it.

E. The police have no special facilities exclusively for the detained juveniles. However, the juveniles are kept in separate cells.

F. According to Chapter 2 Sections 1 and 2 of the Coercive Means Act a person may, instead of detention, be prohibited to travel if he or she is a suspect on probable grounds and if the maximum penalty for the offence in question is more than one year's imprisonment and it is considered probable that the suspect shall seek to escape or evade justice or continue his or her criminal activity.

G. If the suspect has been detained pending trial for two weeks, he or she may, according to Chapter 1 Section 22 of the Coercive Means Act, challenge the legality of the title of detention before the court. The court has to deal with the matter within one week of the request. If the person is detained without probable grounds, as explained above (II. A.), the matter has to be dealt with by the court even if the suspect has not requested it and within one week from the previous decision of the court. The person who is detained by the court may appeal against such a decision separately.

The detained person has also the possibility to complain to the ombudsman about any action taken by the authorities as applied by the Ombudsman of the Parliament Act (2/1920).

H. There are no obstacles to full compliance of the principle referred to. Detention pending trial can only be imposed in accordance with the law, as explained above. Juveniles are detained in exceptional circumstances only.

III. Last possible use of institutionalization

A. The Parliament has passed a bill which will amend Section 14 of the Police Act (84/1966), Sections 15 and 15 a-c of the Enforcement of the Penal Code Act (39/1889), Chapter 3 Section 5 of the Penal Code and the relevant Sections of the Juvenile Delinquent Act. The bill will enter into force on 1 January 1990.

According to the bill the police may, if the offence is considered very minor, decide not to report it. This possibility will often be used in connection with juveniles. The prosecutor may decide not to prosecute a juvenile for an offence if the penalty is not expected to be more than five or six months' imprisonment and the offence is considered being committed for thoughtlessness. The court may on similar grounds decide not to impose a penalty upon a juvenile.

B. (i) According to Chapter 4 Section 12 of the Protection of the Child Act the Municipal Authorities will take action to care, guide and supervise the juvenile who endangers his or her development by his or her behaviour. This may mean various forms of support to the juvenile and his or her family. If the juvenile commits a serious offence and other means prove to be insufficient the municipality may take him or her into custody in accordance with Chapter 5 of the Act.

(ii) According to Section 1 of the Suspended Penalty Act (135/1976) a sentence for imprisonment for not more than two years can be suspended. The imprisonment of a juvenile must according to Subsection 2 be suspended except when there are important reasons not to do so. During the time of suspension a probation officer is assigned for the juvenile except if the court deems it unnecessary.

(iii) For the time being there are no community service orders in Finland. A bill concerning the application of such a system has been sent to the Parliament.

(iv) Financial penalties, compensation and restitution is applied when prescribed by law.

(v) - (x) The action taken by the Municipal Authorities, referred to above (i), may, when deemed appropriate, include measures referred to in these points.

C. In 5.3 per cent of the cases custodial measures were applied to juvenile offenders in 1986.

D. There are no obstacles to full compliance with the principle referred to apart from the provision that the penalty cannot be suspended if it is more than two years' imprisonment, as explained above (III. B. ii.). The placement of a juvenile in an institution is a disposition of last resort and for a minimum necessary period.

IV. Objectives of institutional treatment

A. There are no laws outside the penal law field where juveniles would be separately dealt with as far as the deprivation of liberty is concerned. The provisions of the State of War Act (303/1930) and the Alien Act (400/1983) according to which a person can in exceptional circumstances be deprived of his or her liberty concern both adults and young people.

B. These principles are included in the law, although not explicitly.

C. While detained pending trial a juvenile who has not completed his or her compulsory education, will attend the comprehensive school. Juveniles who have not completed their three last forms of secondary school, which is voluntary, have a possibility to continue attending that school. Juveniles have also a possibility to receive education which will improve their professional skills.

While undergoing their prison sentences all juveniles have the same facilities as those detained pending trial. In addition to that they can also attend vocational school.

D. There are no specialized juvenile courts in Finland.

E. Criminal offences committed by juveniles are dealt with by ordinary criminal courts. Only these courts may deprive juveniles of their liberty for a criminal offence.

F. According to Chapter 3 Section 2 of the Penal Code a juvenile may, if a life sentence would have been applicable for the crime when committed by an older person, be sentenced for 12 years in prison at most.

G. A juvenile cannot be sentenced to detention for an indeterminate period.

H. According to Sections 14-17 of the Juvenile Delinquent Act a young offender who is sentenced for more than six months and not more than four years in prison will be taken to the Prison Court, composed of three lawyers, a psychiatrist and a social worker. The court will decide whether he or she will be sent to a Juvenile Prison. In other cases and if the Prison Court decides not to send the person to a Juvenile Prison, the prison authorities of the Ministry of Justice will decide what prison he or she will be sent to.

I. There are no obstacles to the full compliance with the principle referred to.

V. Separation of adults and juveniles in penal institutions

- A. The law does not expressly recognize the principle referred to. The matter is considered case by case in accordance with the procedure explained above (IV. H.).
- B. There are no such special situations, recognized by law or regulations.
- C. There are no practical difficulties. The matter is decided by the prison authorities.
- D. Apart from the Juvenile Prisons there are also other prisons where special rehabilitative programmes are applied. Juvenile offenders are often kept in these prisons where they may stay with older prisoners who also are considered to be capable of development.

The prison authorities are responsible for providing the juveniles with programmes best suited for their needs and well-being. The juveniles must not be in contact with persons who may have a harmful influence upon them.

D. MADAGASCAR

[Original: French]
[9 July 1990]

I. Definition of "juvenile" under national law

A. In Malagasy law, a juvenile is defined as a person of either sex who has not reached 21 years of age; however, while the age of majority for the enjoyment of civil rights is 21, that for political rights (right to vote), for criminal matters and for matrimony is 18.

B. The age of criminal responsibility in our country is 13 but a juvenile court, before passing sentence, must rule on the question of criminal responsibility as follows:

If a juvenile between 13 and 16 years of age is held to be criminally responsible, lack of full age shall automatically be regarded as a mitigating factor; the penalty imposed on the juvenile may not exceed half that which he would have received had he been of full age at the time of the offence;

If, on the other hand, the juvenile is not held to be criminally responsible, the juvenile court shall either prescribe one of several educative measures (placement under the supervision of the parents, guardian, person having custody of the juvenile or person worthy of confidence) or order the juvenile to be placed in a rehabilitation centre for a defined period not extending beyond the time when he will reach 21 years of age.

These provisions are applicable to juveniles between 16 and 18 years of age; however, the juvenile court may, by special decision for which it must give its reasons, disallow the mitigating factor of lack of full age.

C. A person charged with an offence may be tried as an adult from the age of 16 onwards if lack of full age is disallowed as a mitigating factor by special decision of the juvenile court for which the court gives its reasons.

D. Juveniles between 16 and 18 years of age are tried as adults in cases where lack of full age is disallowed as a mitigating factor by special decision for which reasons are given. The cases most frequently reported by the juvenile courts in Antananarivo involve theft of standing crops, consumption of Indian hemp and cattle stealing.

E. Proceedings against juveniles for "status offences" are not authorised by Malagasy legislation.

II. Detention pending trial

A. The law permits the detention pending trial of juveniles by court order except in the case of juveniles aged 13 years, who cannot be served with a warrant of commitment unless the crime has caused or may cause a serious breach of public order.

B. Under article 70 of Ordinance No. 62-038 of 19 September 1962 abrogating and superseding Ordinance No. 60-142 of 3 October 1960 on child protection, the rules governing detention set forth in articles 136 et seq. of the Code of

Criminal Procedure are applicable to juveniles. The period of detention prescribed in connection with a crime or misdemeanour is 48 hours, after which time the juvenile must be released or brought before the magistrate responsible for public prosecution; however, in the latter's absence, the period of detention may be extended to three days. If the judicial police officer lives outside the town in which a court or section of a court has its seat, he may request the magistrate or public prosecutor of his district to authorize detention of the juvenile for a further period not exceeding 48 hours.

When the arrest is made away from the normal home of the judicial police officer undertaking the investigation, the 48-hour period shall be extended by one day for each 25 kilometres, but in no case may it exceed a maximum of 12 days.

C. In 1989, 3.7 per cent of persons held in detention pending trial were juveniles.

D. In principle, juveniles detained pending trial are kept separate from adults and from convicted juveniles, and separate detention facilities are set aside for this purpose. Owing to overcrowding in prisons and lack of facilities, however, this principle is no longer observed.

E. The police have no special facilities exclusively for juveniles and use cells for both adults and juveniles. In the capital, however, juveniles are held in separate rooms.

F. During the investigation, the juvenile judge may order the juvenile to be placed under the supervision of his parents, guardian or person worthy of confidence, or in a State-approved institution.

G. A juvenile deprived of liberty is entitled to appeal against an order placing him in detention pending trial or against a conviction.

H. The main obstacles which may arise in regard to full compliance with the principle that detention pending trial should be imposed only in exceptional circumstances are:

Gravity of the offence;

Recidivism;

Refusal by the parents to take charge of the juvenile offender.

III. Least possible use of institutionalization

A. The juvenile judge, on an application from the Government Attorney, from the juvenile's parents or legal representative or from the juvenile himself, prescribes the necessary measures to obtain information (inquiry into social background, medical examination) and orders the juvenile to be placed under the supervision of his parents, legal representative or person worthy of confidence, or in a State-approved institution.

B. A sentence may take one of the following forms:

- (i) Care, guidance and supervision: penal sanctions may be combined with probation or placement in a rehabilitation centre;
- (ii) A suspended sentence: Malagasy criminal law allows the judge to grant a stay of execution of a prison sentence or fine;
- (iii) Intervention by the Community: at Antananarivo, five centres dealing exclusively with juveniles are run by non-governmental organizations;
- (iv) Fines, financial compensation and restitution;
- (v) Placement with a family or in a community centre or other educational setting;
- (vi) Commitment to an open detention facility on probation;
- (vii) Commitment to a closed detention facility.

These sentences are always determined by the juvenile judge and by the juvenile court.

C. According to one juvenile court in Antananarivo, non-custodial measures were applied in 54.94 per cent of juvenile cases.

D. The main obstacles which may arise in regard to full compliance with the principle that the placement of a juvenile in an institution should always be a disposition of last resort and for the minimum necessary period are lack of family support; inability to find persons worthy of confidence to supervise the juvenile; and the refusal by parents to assume their responsibility towards their delinquent children.

IV. Objectives of institutional treatment

A. Ordinance No. 62-038 of 19 September 1962 on child protection allows the juvenile judge to order a juvenile whose safety, moral welfare, health or education is in jeopardy to be placed in a State-approved institution.

B. The above-cited Ordinance sets out rules governing the sentencing of juveniles. Each facility for juveniles also has its own internal regulations for the treatment of juveniles.

C. Detention facilities for juvenile offenders generally provide training in woodwork, agriculture and sewing. Juvenile offenders are also introduced to team games.

D. Ordinance No. 62-038 provides that juvenile courts shall comprise one juvenile judge and assistant judges, but in practice juveniles are tried by an ordinary court acting as a juvenile court, which must however observe and comply with the provisions of that Ordinance. In principle, these courts examine all cases involving juveniles.

E. Only the juvenile court may deprive juveniles of their liberty; however, the juvenile judge may entrust the juvenile to a State-approved institution during the investigation.

F. In the case of juveniles between 13 and 16 years of age, where lack of full age is automatically deemed to be a mitigating factor, the maximum period of deprivation of liberty is:

Five years for a correctional offence;

Twenty years for a criminal offence.

For juveniles aged 16 to 18 years, if lack of full age is deemed to be a mitigating factor, the maximum period is the same as above. Otherwise, with the exception of the death penalty, the same penalties as for adults are applicable, namely:

Ten years for correctional offence;

Life imprisonment for a criminal offence.

G. Yes, for juveniles between 16 and 18 years of age if lack of full age is disallowed as a mitigating factor by special decision for which reasons are given. The juvenile may be released by decree of the Minister of Justice granting conditional release, or by Presidential decree granting a pardon or amnesty.

H. It is the juvenile judge who determines the institution best suited for the treatment of a juvenile offender.

I. The main obstacles which may arise in regard to full compliance with the principles that promoting the social reintegration of juveniles and encouraging their assuming constructive roles in society constitute the essential objectives of deprivation of liberty are: the lack of staff specialized in youth affairs; a lack of resources; and the rejection of a juvenile offender by society.

V. Separation of adults and juveniles in penal institutions

A. Malagasy law recognizes that juveniles deprived of their liberty should be kept separate from adults.

The main obstacles which may arise in regard to full compliance with this principle are: lack of facilities and prison overcrowding.

B. The law does not recognize any special situations in which bringing together juvenile offenders with adults is considered to be beneficial for the juveniles concerned.

C. Inadequate and dilapidated facilities and overcrowding in prisons are the difficulties which result in juveniles' not being kept separate from adults. The law itself guarantees the protection of juveniles.

D. While detention facilities are not designed for both adults and juveniles, they are in fact mixed in Madagascar. Directors of penal institutions none the less endeavour to set aside a room for all juveniles under the supervision of an adult offender, and educational and moral welfare programmes are prescribed for the juveniles. In order to protect against the dangers of contact with adult offenders, the authorities have established the rule that juveniles may not have access to rooms assigned to adults. It should be noted that rooms, not separate blocks, are what is meant here.

E. UKRAINE

[Original: Russian]
[26 June 1990]

I.

A. A "juvenile" is defined in Ukrainian law as a person under 18 years of age.

B. Article 10 of the Criminal Code of the Ukrainian SSR states: "Persons who have reached the age of 16 before the commission of a crime shall be held criminally liable.

Persons from 14 to 16 years of age who commit crimes shall be held criminally liable only for murder (arts. 93-98), deliberate infliction of bodily injury causing an impairment of health (arts. 101-104 and 106, para. 1), rape (art. 117), theft (arts. 81, 86 (1), 140 and 223), robbery (arts. 82, 86 (1), 141 and 223), robbery with violence (arts. 86, 86 (1), 142 and 223, para. 2), malicious hooliganism (art. 206, paras. 2 and 3), wanton destruction or damage to State, public or private property with grave consequences (arts. 89, para. 2, and 145, para. 2), and deliberate acts that may cause a train wreck (art. 78).

The law imposes no other limits on the onset of criminal liability for juveniles.

C. A person may be tried as an adult on attaining 18 years of age.

D. No such conditions or procedures are provided for under criminal law.

E. The law does not allow juveniles to be proceeded against for "status offences".

II.

A. The criminal law does not provide for the detention pending trial of juveniles by court order.

B. If there is sufficient reason to believe that an accused juvenile may, if at liberty, evade investigation or hinder the establishment of the facts in a criminal case, or that he may engage in criminal activities, the investigating officer is entitled, with the procurator's approval, to use confinement in custody as a restraining measure against the individual concerned.

Under the Code of Criminal Procedure of the Ukrainian SSR, detention or confinement in custody may be employed as a restraining measure against juveniles only in exceptional cases, as and when such a measure is warranted by the gravity of the crime, when there are grounds, and in accordance with procedure laid down in the Code (art. 434).

Article 155 of the Code provides that "confinement in custody shall be employed as a restraining measure in cases involving crimes for which the law assigns punishment in the form of deprivation of liberty for a term of more

than one year. In exceptional instances, this restraining measure may be employed in cases involving crimes for which the law assigns punishment in the form of deprivation of liberty for a term not exceeding one year".

Under article 156 of the Code of Criminal Procedure, detention in custody in connection with the investigation of a criminal offence may not last more than two months. This period can be extended by the procurator to three months if it is impossible to complete the investigation and there is no reason to change the restraining measure. The period of detention may be further extended to nine months only by reason of the special complexity of the case.

An extension of the period of detention beyond nine months is allowed in exceptional instances and only in respect of persons accused of serious crimes (where it may last up to one and a half years).

No further extension is permitted, and the accused person being held in detention is subject to immediate release.

C. According to statistics provided by the Supreme Court and Ministry of Internal Affairs of the Ukrainian SSR, approximately one third of juvenile offenders are detained pending trial. The length of such detention is normally two months.

D. In accordance with the Regulations on Detention Pending Trial (art. 8), detainees are placed in cells under the following conditions:

Juveniles are kept separate from adults. In exceptional cases, and with the procurator's approval, adults may be held in cells containing juveniles;

Persons who have previously served sentences of imprisonment are kept separate from those who have not;

Persons accused or suspected of having committed serious crimes are kept separate from other detainees;

Convicted persons are kept separate from other detainees, in accordance with the corrective labour régimes specified in their sentences;

Facilities are available in police cells for juvenile offenders to be detained separately.

E. The necessary conditions are provided in all short-term detention facilities of the internal affairs authorities to keep juveniles separate from adults. Juvenile detainees enjoy all the rights granted to adult detainees. In addition, they are entitled to two hours of daily exercise.

F. Any of the restraining measures provided for in article 149 of the Code of Criminal Procedure may be applied to a juvenile accused of an offence: written undertaking not to change address, personal surety or surety of a public organization or labour collective. These restraining measures are applied to juveniles on a general basis in accordance with articles 151, 152 and 154 of the Code of Criminal Procedure.

If, considering the pettiness of the offence and the character of the juvenile, there is no need to choose confinement in custody as a restraining measure, the individual concerned may, in accordance with article 436 of the Code of Criminal Procedure, be placed under the supervision of his parents or guardians, in foster care or in a children's institution.

This alternative measure may be taken at the initiative of the investigating officer, procurator or court, or on an application from the persons or children's institution referred to in article 436.

G. Ukrainian legislation contains no special provision entitling a juvenile to challenge a restraining measure before the courts.

However, article 237 of the Code of Criminal Procedure makes it obligatory in cases involving offenses by juveniles to hold a preliminary session of the court at which the juvenile, his legal representative or, his defence counsel may submit a petition to have the restraining measure ordered declared unwarranted (art. 242 of the Code of Criminal Procedure).

On attaining 14 years of age, a juvenile enjoys all the procedural rights granted to an accused person under articles 43 and 263 of the Code of Criminal Procedure.

H. According to information provided by the Republic's Supreme Court and Ministry of Internal Affairs, the principle that detention pending trial should be imposed only in exceptional circumstances is complied with.

III.

A. No.

B. Under article 18 of the Statute governing Commissions on Juvenile Affairs, the following disposition measures may be applied to juveniles:

- (i) Obligation to make an apology, publicly or otherwise, to the injured party;
- (ii) Caution;
- (iii) In the case of a juvenile having reached 15 years of age, mandatory reparation for material losses if the juvenile concerned has his own income and the damages do not exceed 50 roubles, or mandatory repair through his own efforts of material damage not exceeding 50 roubles;
- (iv) Imposition of fines on any juvenile over 16 years of age with his own income, in the circumstances and amounts laid down by the highest authorities of the USSR or Ukrainian SSR and their executive committee;
- (v) Placement of the juvenile under the supervision of his parents, persons acting in loco parentis or social guidance counsellors, or under the observation of a labour collective or public organization with their consent;

- (vi) Placement of the juvenile under the supervision of his parents, persons acting in loco parentis or social guidance counsellors, or under the observation of a labour collective or public organization at their request;
- (vii) Commitment to a special rehabilitation centre other than a preventive clinic for drug addicts;
- (viii) Placement in a "special vocational-technical training institution" if the juvenile has committed an act representing a danger to society or has maliciously and systematically violated the rules of social conduct.

C. According to information provided by the Ukrainian Supreme Court, non-custodial measures were applied in 1989 to 68.7 per cent of convicted juveniles.

D. There are no obstacles to full compliance with the principle that the placement of a juvenile in an institution should always be a disposition of last resort. This is borne out by the trial statistics (only 31.3 per cent of those convicted of crimes representing a danger to society are kept in penal institutions).

IV.

A. No.

B. Ukrainian criminal law states that the purpose of punishment is not to cause physical suffering or to lower human dignity; it not only constitutes a chastisement but serves in particular as a means of correcting convicted persons in a spirit of strict regard for the law (art. 22 of the Criminal Code of the Ukrainian SSR). The principal methods employed to realise this goal are enumerated in the Corrective Labour Code, which states that it is to be achieved by establishing a specific régime for the punishment and labour of convicted persons and the provision to them of guidance, general education and vocational and technical training.

C. Juvenile offenders serving sentences in correctional labour institutions are, in accordance with articles 59 and 64 of the Correctional Labour Code, given compulsory general education and vocational and technical training.

D. No.

E. Under articles 149 and 158 of the Constitution of the Ukrainian SSR, justice in criminal cases is administered only by the courts. No one may be found guilty or subjected to punishment for a criminal offence except by decision of the courts and in accordance with the law.

F. Article 25 of the Criminal Code states that "A person who was under 18 years of age at the time of committing an offence may not be sentenced to a period of deprivation of liberty exceeding 10 years".

The same article sets the minimum period of deprivation of liberty at three months. In practice, however, Ukrainian courts do not impose this minimum penalty.

G. No.

H. Article 335 of the Code of Criminal Procedure requires the court, on the basis of article 25 of the Criminal Code, to determine the type of correctional labour institution best suited for the treatment of a juvenile offender.

I. There are no such obstacles.

V.

A. Yes. In accordance with the Corrective Labour Code of the Ukrainian SSR, correctional labour institutions are divided on the basis of article 25 of the Criminal Code into normal and hard régime facilities (art. 18).

"Male juvenile offenders sentenced to deprivation of liberty for the first time serve their sentences in normal régime facilities; those convicted of offences which are not serious, and likewise all female juvenile offenders, are kept separate from those convicted of serious crimes."

Male juvenile offenders who have previously served prison sentences, and persons transferred from a normal régime facility for malicious violation of the regulations, serve their sentences in hard régime facilities.

B. No.

C. The Ministry of Internal Affairs of the Ukrainian SSR has not in practice allowed adult and juvenile offenders to be kept together in the same correctional labour institution.

D. No, there are no such "mixed" or "multi-purpose" detention facilities.

However, article 28 of the Corrective Labour Code states that "to consolidate progress made in their correction and rehabilitation and with a view to the completion of their general education or vocational and technical training, convicts who have reached 18 years of age will normally remain at the same correctional labour institution until the end of their term of punishment, but not beyond their 20th birthday".
